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Two smaller complaints must be made. The book is written for the most part in good and pleasant English, which renders all the more disconcerting the odd slips in grammar which occur now and then: on page 5, "it is frequently denied that . . . but rather that"; on page 20, "when listening to a man walking . . . the hand would swing;" on page 35, "they [impressions] owe their origin . . . to having held the expected sensation in mind"; on page 315, "equally . . . as"; on page 317, "different . . . than." And the illustrations, which are most commendably numerous, are apt to be a little trite and sometimes unreal. There is a story about a builder and a geologist on page 63 which we do not believe.

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DIE KUNST DER RECHTSANWENDUNG: Zugleich ein Beitrag zur Methodenlehre der Geisteswissenschaften. By Lorenz Brütt, Dr. Jur, Berlin: 1907. Pp. 214.

Dr. Brütt begins with a sketch of "critical positivism." The leading idea of this philosophy, which must not be confused with the "naïf positivism" of Comte, is "back to Kant." It is defined as the view which, holding that no knowledge of things in themselves is possible, confines itself to experience. A corollary, important for the matter in hand, is that no ethical judgments are objectively valid. Dr. Brütt's reasons for this view seem to be (1) that space and time are subjective forms of perception, and (2) that all propositions (except those of mathematics, which are purely formal and yield no fresh information about reality) are analytic. Other points on which he lays stress are the fallacies of confusing cause with reason (Spinoza) and of hypostatizing universals (Hegel). But it is not until section four that the bearing of these views on the theory of jurisprudence begins to appear. That section discusses the vexed subject of the theory of the interpretation of law, and begins by considering Savigny's theory of philological interpretation, which is rejected on the ground that the fixity of law is not to be exposed to the caprices of language, but demands a system of literal interpretation. On the other hand, literal interpretation notoriously breaks down; often, as in Section 833 of the German Civil Code (on the keeping of animals), the words may

bear many different senses. Hence we require a criterion for finding the right sense without falling into the historico-philological error. This dilemma Dr. Brütt solves by the notion of "immanent judgments of value": the judge has to disengage the judgment of value which is latent in the law, treating it not as the *cause* of the law (that would be the philological fallacy), but as the *ratio juris*. Here, then, we have a point of connection with the author's philosophical views, although it is difficult to see that the connection is more than verbal. In the next section the theory of latent values is applied to the problem of supplementing omissions in law. And first, are there any "gaps" in law? Dr. Brütt rejects the opinion of those jurists who hold that every system of positive law is complete in itself; we must in practice admit that there are situations (private international law supplies the most glaring instance) as to which positive law gives no ruling; moreover, to attribute to law an indefinite power of dialectical expansion would contradict the doctrine that all significant propositions are analytic. This is a second and more important point of contact between philosophy and jurisprudence: the doctrine of "gaps" in law is deduced from the subject-predicate theory of propositions. Another philosophical consequence is the condemnation of "Begriffsjurisprudenz." Under Hegelian influence the school of Savigny and Puchta, followed by Thering, treated legal concepts as self-subsistent realities; hence, in spite of their historical merits, they have fallen before modern positivism in jurisprudence, just as metaphysical realism has fallen before scientific method. Equally untenable is "Gefühlsjurisprudenz," since the judge's mere feeling for justice cannot give the objective standard we require. After a section devoted to the views of Stammler, whom Dr. Brütt in the main follows, and between whom and Kant he draws a parallel, we approach, in section eight, the final development of the theory of latent values. This consists in defining the criterion which the judge must apply whenever he has occasion, by supplementing positive law or otherwise, to bring out the latent judgment of value. The criterion is that of "richtiges Recht"; and that law is called "right" which promotes as much as possible the development of a nation's civilization. The rest of the book is occupied mainly with tentative applications of this criterion to technical problems.

In England and America a judge's position under the common law is so different from that in Germany that the subject of this ingenious work must seem rather unreal to English-speaking readers. Still a few words of general criticism may be in place. Dr. Brütt has not made good the claim of his subtitle; whatever the value of his work from the point of view of the jurist, it fails as a contribution to the doctrine of scientific method. The fault lies in failure to establish a real connection between principles and conclusions. We are given the Kantian premises, and we are given the conclusions about "richtiges Recht" and "latent values"; but nothing could be flimsier than the pretense that the latter follow from the former. It may be doubted whether the ideal, which floated before Leibnitz in his youth, of developing theory of jurisprudence from logic, is more than a dream; at any rate Dr. Brütt does nothing to dispel the doubt. If anything, he confirms it, since his system is self-contradictory in a vital point. For the judgment that any law is "right" is surely an ethical judgment, even on Dr. Brütt's definition of "right"; but if so it cannot, according to the philosophy of section one, be allowed objective validity; and hence there is no reason for preferring it to the "Gefühlss-jurisprudenz," which was disqualified solely on the ground of subjectivity.

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THE CONCEPTS OF EQUALITY IN THE WRITINGS OF ROUSSEAU, BENTHAM AND KANT. By Alfred Tuttle Williams, Ph. D., Columbia. New York: Teachers College, 1907.

Mr. Williams has contributed a valuable item to the theory of ethics, and therefore to the theory of education. Of the concept of equality one has to ask, with Aristotle, *in what respects?* There is no equality of hereditary dispositions, talents or any kind of natural endowment. There is no equality of happiness. For Plato equality was of opportunity. For Aristotle, quite similarly, it was of justice. For the Hebrew nation it was of the moral nature. For Christianity it had a basis in the conception of a spiritual sonship of God. Having touched lightly but adequately on these ideas, Mr. Williams advances to modern political and ethical theory, halting for